

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	SHEN et al.	Patent Application
Application No.:	10/687,997	Group Art Unit: 2157
Filed:	October 17, 2003	Examiner: El Chanti, Hussein A.
For:	SHARED RUNNING-BUFFER-BASED CACHING SYSTEM	

REPLY BRIEF

In response to the Examiner's Answer mailed on July 24, 2008, Appellants respectfully submit the following remarks.

## REMARKS

Appellants are submitting the following remarks in response to the Examiner's Answer. In these remarks, Appellants are addressing certain arguments presented in the Examiner's Answer. While only certain arguments are addressed in this Reply Brief, this should not be construed that Appellants agree with the other arguments presented in the Examiner's Answer.

### Response to Response to Argument in Examiner's Answer

Page 12 of the Examiner's Answer states "Appellant argues that Vahalia does not disclose retrieving the content object as a datastream while delivering the datastream to the client and deleting data from the start point of the datastream while continuing to insert retrieved data into the running buffer" (emphasis added; Examiner's Answer; page 11, line 20, through page 12, line 3).

Appellants respectfully note that Claim 2 recites in part "if the second request is received after the start point has been deleted from the first running buffer, retrieving a portion of the content object that has been deleted from the first running buffer, commencing from the start point, and delivering the datastream while simultaneously delivering a different part of the content object from the first running buffer" (emphasis added). Independent Claim 9 recites a similar embodiment.

Appellants note that MPEP §2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*,

868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Appellants understand the Examiner's Answer to assert that Vahalia discloses "1) all the portions are already stored on the four servers, 2) each of the servers is ready to start transmitting the frame as soon as a request is received from the client, and 3) no additional configuration or downloading is required to download an additional portion when the request is received; therefore the buffers are 'configured' to simultaneously provide a first and second portion as claimed" (Examiner's Answer; page 11, line 20, through page 12, line 3).

In contrast, Appellants respectfully submit that Vahalia does not disclose "if the second request is received after the start point has been deleted from the first running buffer, retrieving a portion of the content object that has been deleted from the first running buffer, commencing from the start point, and delivering the datastream while simultaneously delivering a different part of the content object from the first running buffer" (emphasis added). In contrast, as asserted in the Examiner's Answer, Vahalia discloses "1) all the portions are already stored on the four servers" and "2) each of the servers is ready to start transmitting the frame as soon as a request is received from the client" (emphasis added; Examiner's Answer; page 11, lines 20-22). In particular, since Vahalia discloses that all portions are already stored on the four servers, Vahalia does not disclose the claimed embodiments.

In summary, Appellants respectfully submit that the rejections of the Claims are improper as the rejection of Claims 2-7 and 9-14 does not satisfy the requirements of a *prima facie* case of anticipation as each and every element as set forth in the claim arranged as in the claim are not found in Vahalia.

### CONCLUSION

In view of the above remarks, Appellants continue to assert that pending Claims 1-7 and 9-14 are not anticipated by Vahalia, for reasons presented above and for reasons previously presented in the Appeal Brief.

Respectfully submitted,

WAGNER BLECHER LLP

Dated: September 24, 2008

/John P. Wagner, Jr./  
John P. Wagner, Jr.  
Registration Number: 35,398

WAGNER BLECHER LLP  
123 Westridge Drive  
Watsonville, CA 95076  
(408) 377-0500